

STATEMENT OF THE AMERICAN CHIROPRACTIC ASSOCIATION
ON THE AMA SCOPE OF PRACTICE PARTNERSHIP

The American Chiropractic Association (ACA) takes note of the recent AMA “Scope of Practice Partnership” designed to thwart expansion and otherwise restrict state licensed scope of practices of non MD health care providers. The ACA believes it is crucial that the public and state legislators view this initiative in light of the following history.

“In November of 1963, the AMA authorized the formation of the Committee on Quackery under the AMA’s Department of Investigation.” *Wilk v. American Medical Assoc.*, 671 F. Supp. 1465, 1473 (N.D. Ill. 1987), *aff’d*, 895 F.2d 352 (7th Cir. 1990), *cert. denied*, 498 U.S. 982, 111 S. Ct. 513 (1990). Evidence in the Wilk case revealed that the AMA formed such a committee to “contain” the chiropractic profession so that it would ultimately “wither on the vine” and “die a natural but somewhat undramatic death.” “In 1964, the Committee’s primary goal was to contain and eliminate chiropractic.” *Id.* (emphasis added). Evidence in Wilk also indicated that one of the early and continuing goals of the AMA was to: “Oppose chiropractic inroads in health insurance” and “workmen’s compensation.” (A554-62, Wilk evidence)

In 1967, Congress asked the then Department of Health, Education and Welfare (“HEW”) to conduct an unbiased study to determine the need for including coverage for chiropractic services under the Medicare program. The actual study that was conducted was a “sham” engineered by the AMA and complicit medical physician staff members of HEW’s Public Health Service. The study’s conclusion was determined five full months before the study even began. The AMA’s leaders had secretly met with the medical physicians, helped select and “coached” members of the study panel. At one point, a public meeting between the AMA and the study panel was considered, but the notion was rejected.

Doctor Cashman [an HEW medical physician] advised me [an AMA attorney] that the consultant group discussed the proposed meeting and determined that such a meeting may create legislative problems of their recommendations which are submitted to the Secretary for his report to Congress.

(A110, Exhibit B, Wilk evidence) Dr. Mennell, one of the panel members, wrote:

I was disturbed in the past four weeks to receive two telephone calls indirectly from, but quite clearly inspired by, the American Medical Association implicitly suggesting what the tenor of my paper should be.

(A545-51, Exhibit D, Wilk evidence) As a result of the fixed negative report of the study panel, Congress delayed including chiropractic care in Medicare for five more years. The AMA's involvement in the study was fraudulently concealed from Congress by Dr. Cashman, even after Congress questioned HEW about the AMA's involvement in the study. (A824-25 Wilk evidence)

Finally, due to extensive public demand, and despite the AMA's objections and efforts of dissuasion, Congress passed the Social Security Amendments of 1972 that, *inter alia*, modified the Social Security Act to include chiropractic services as a covered service under Medicare. 42 U.S.C. § 1395x(r)(5).

Both before and after the inclusion of chiropractic services into Medicare, the AMA was working with medical doctor-dominated insurance companies to prevent any insurance payments for chiropractic services. For example, AMA staff met with Blue Shield to prevent insurance payment for chiropractic services:

CHIROPRACTIC COVERAGE UNDER BLUE SHIELD –

[AMA] Staff will continue to maintain liaison with the National Association of Blue Shield Plans in regard to chiropractic attempts to gain coverage under Blue Shield. (NOTE: A productive meeting was held with representatives of Blue Shield on this point. They are actively considering various methods of excluding doctors of chiropractic from Blue Shield coverage.) (Sept. 1967)

(A140-47, Exhibit H, Wilk evidence (emphasis added));

We [Blue Shield] have filed and may use in 6 states an exclusion deleting manipulative services and subluxations for the purpose of removing nerve interference. Basically, the exclusion extends to services of a chiropractor by definition. (Sept. 1969)

(A148-50, Exhibit I, Wilk evidence (emphasis added)); and

Resistance to chiropractic payment may be indicated by the fact that fewer [Blue Shield] Plans make payment than the laws require. (Feb. 1973)

(A151-75, Exhibit J, Wilk evidence)

In a May 10, 1973 report, the chairman of the AMA Committee on Quackery, in speeches made to medical students around the country, referred to chiropractors as “rabid dogs” and “killers.” (A851.) This conduct went on throughout the 1970s and 80s, which is set forth in the district court opinion in the Wilk case discussed, *infra*.

In response to the AMA’s conduct (and the conduct of other medical physicians’ associations and insurance plans) towards the chiropractic profession, chiropractors sought relief in both federal and state courts. The United States District Court for the Northern District of Illinois, following an eight week trial, found that the AMA’s and its co-conspirators’ purpose in their unlawful boycott of chiropractic was to prevent all medical physicians in the United States from referring patients to or accepting patient referrals from chiropractors, to prevent chiropractors from obtaining access to hospital diagnostic services and membership of hospital medical staffs, to prevent medical physicians from teaching at chiropractic colleges and/or engaging in any joint research papers, and to prevent any cooperation whatsoever between the two professional groups in the delivery of health care services. *Wilk v. American Medical Association*, 671 F. Supp. 1465 (N.D. Ill. 1987), *aff’d*, 895 F.2d 352 (7th Cir. 1990), *cert. denied*, 498 U.S. 982, 111 S. Ct. 513 (1990).

The district court held that the AMA was guilty of engaging in a nationwide illegal boycott in violation of the Sherman Act and imposed a nationwide injunction that is still in force. *Id.* The Seventh Circuit affirmed the verdict in 1990. *Wilk v. American Medical Association*, 895 F.2d 352, 371 (7th Cir. 1990), *cert. denied*, 498 U.S. 982, 111 S. Ct. 513 (1990). (“The district court’s [remedy] was a reasonable attempt at eliminating the consequences of the AMA’s lengthy, systematic, successful, and unlawful boycott.”) (emphasis added). It should come as no surprise that the injunction that was imposed against the AMA by the United States Court for the Northern District of Illinois and which was affirmed by the Seventh Circuit in 1990, was absolutely essential and that medical doctors are still reluctant to refer patients to chiropractors.

With that history in mind, the ACA and state chiropractic associations will vigorously oppose any efforts by the AMA to limit or otherwise restrict the state authorized care provided to patients by licensed doctors of chiropractic. These actions by organized medicine will only limit access to providers who have the education, expertise and experience to provide safe, quality health care services to the public.